

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7814 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

PIRSINGH CHHATRASING CHAUHAN

Versus

SUDHIR SINHA

Appearance:

MS KUSUM M SHAH for Petitioner

MS HARSHA DEVANI, ld.AGP for Respondents

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 06/10/2000

ORAL JUDGEMENT

This Special Civil Application is directed
against the detention order dated 2.6.2000 passed against
the petitioner by Police Commissioner, Rajkot City
detaining him under Sec.3(2) of the Gujarat Prevention of
Anti Social Activities Act, 1985.

No reply to the petition has been filed by the respondents.

The petitioner is a resident of village Sanchor, District Jalor in Rajasthan State and basically he is an agriculturist and the grounds in support of the detention order also show that he is an agriculturist, but he is carrying on illegal activities in transporting unauthorised liquor being resident of a village on the Boarder of Rajasthan and Gujarat. His place of business is said to be Rajkot. The ground of detention show that a Criminal Case No.78/2000 was registered against the petitioner on 31.5.2000 at Rajkot Taluka Police Station, Rajkot City under the provisions of Bombay Prohibition Act, which was still under investigation at the time when the detention order was passed. The petitioner is said to be a bootlegger and he is engaged in carrying on unauthorised liquor business. All the allegations, as are levelled against the petitioner in the grounds of detention order, even if taken to be true, may at the most constitute a case of breach of law and order, not that of breach of public order. The solitary criminal case was registered against the petitioner under Bombay Prohibition Act in May 2000. Law is settled that in such cases, bootlegging activity by itself does not constitute a case of threat to public order. Learned A.G.P. has referred to the case of K.S.Zala v. State of Gujarat, reported in 1999 (2) GLH 415 and has submitted that it is mentioned in the grounds of detention order that the petitioner's activities are injurious to the public health and, therefore, it is a case of breach of public order. After considering the case of K.S.Zala (Supra) the Division Bench of this Court in Letters Patent Appeal No.223/2000 decided on 22.8.2000 has already taken the view that the bald mention that activities are going to have adverse impact on the public health cannot be said to be a ground for breach of public order in absence of any cogent and credible material in support of the case of adverse effect on the public health. In the facts of the present case, no credible and cogent material germane to the question of public health has been pointed out and it is clear that there is no material to form such an opinion against the petitioner. It is at the most a case of breach of law and order and no case for breach of public order.

In this view of the matter, the impugned detention order dated 2.6.2000 passed by the Police Commissioner, Rajkot City, against the petitioner cannot be sustained in the eye of law and the same is hereby

quashed and set aside. It is directed that the petitioner Pirsingh Chhatrasingh Chauhan shall be released forthwith from Jamnagar Jail where he is detained since 2.6.2000, in case he is not required in any other matter. This Special Civil Application is allowed. Rule is made absolute.

(M.R.Callan,J)